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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,556	10/12/2005	Shawn Fowler	THAS126531	6653
26389 7590 09/04/2009 CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347				
EXAMINER O'HERN, BRENT T				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
09/04/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,556

Applicant(s)

FOWLER ET AL.

Examiner

Brent T. O'Hern

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/2/2009 has been entered.
2. Claims 1-10 are pending.

WITHDRAWN REJECTIONS

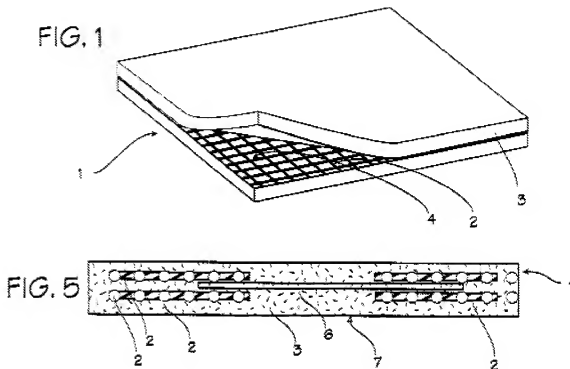
3. All rejections of record in the Office action mailed 4/8/2009 have been withdrawn due to Applicant's amendments in the Paper filed 7/2/2009.

NEW REJECTIONS

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

4. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent (US 5,924,694) in view of Crook (US 5,482,754).

Kent ('694) teaches a rubber mat (*See FIGs 1, 5 and col. 3, l. 1 to col. 4, l. 4, col. 4, ll. 23-34, mat #1.*),



comprising a flexible rubber slab having a top face, a bottom face, opposed side edges defining a width and opposed end edges defining a length (*See FIGs 1 and 5.*); and a first and second rigidifying grid of reinforcing wire spaced between the top and bottom faces made of steel having the same gauge embedded within the rubber slab and consisting of a plurality of parallel spaced wires embedded within the rubber slab and extending between the opposed side edges for most of the width of the rubber slab and a plurality of evenly parallel spaced wires embedded within the rubber slab and extending between the opposed end edges for most of the length of the rubber slab with the reinforcing wire providing sufficient rigidity while retaining sufficient flexibility to conform to the surface applied thereto (*See FIGs 1, 5 and col. 3, l. 1 to col. 4, l. 4, col. 4, ll. 23-34, mat #1 with two steel wire/screen grids of wire embedded within rubber #3.*), however, fails to expressly disclose the diameter of the reinforcing wire of the first and

second rigidifying grids not being smaller than the diameter of number ten gauge wire, being six and three gauges in the different directions, the wire being of different gauges in different directions, the spacing being two or three inches in one direction and different in the different directions and the rubber being made from recycled vehicular tires.

However, Kent ('694) teaches the screens need to be strong enough to give structural support and flexible enough so as to conform to the surface to be covered and the size of the wire and spacing being larger or smaller depending on how the mat is used (*See col. 3, l. 1 to col. 4, l. 4, col. 4, ll. 23-34.*). Furthermore, Applicant acknowledges on p. 4, lines 26-28 of Applicant's Specification that the gauge and spacing of the wire can be altered to satisfy the intended use.

Crook ('754) teaches a wire reinforced rubber mat made from recycled vehicle tires that are capable of supporting heavy vehicles and protecting against flying debris (*See col. 2, ll. 4-21 and 35-40.*) for the purpose of supporting ground vehicles or protecting against flying debris as a result of blasting (*See col. 2, ll. 35-40.*).

Regarding the dimensions and orientations of the reinforcement, it would have been obvious to one having ordinary skill in the art to adjust the dimensions and orientations to the above values and orientations for the intended application since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Furthermore, a person having ordinary skill in the art would know how through routine experimentation and optimization to increase or decrease the dimensions and

orientations of the reinforcement based on the load and flexibility requirements for the particular application.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time Applicant's invention was made to use recycled rubber tires as taught by Crook ('754) in Kent ('694) and vary the gauge number and spacing of the wire in order to provide a strong, flexible mat that is economical, environmentally friendly and satisfies the intended use requirements.

ANSWERS TO APPLICANT'S ARGUMENTS

5. In response to Applicant's arguments (*See p. 5, paras. 4-5 of Applicant's Paper filed 7/2/2009.*) that Kent ('694) does not use two grids that reduce bending deflections and lowering shear deflections, it is noted that Kent ('694) teaches embodiments for two grids as well as for one grid with the two grid embodiments being the same as Applicant claims, thus, having the same properties. Furthermore, Applicant does not set forth specific limitations for deflections.

6. In response to Applicant's arguments (*See p. 5, para. 5 of Applicant's Paper filed 7/2/2009.*) that Crook ('754) also does not teach the above noted deflections limitations, it is noted that Crook ('754) is cited for using recycled vehicle tires in mats for supporting vehicles and not for teachings deflections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571)272-0496. The examiner can normally be reached on Monday-Thursday, 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brent T. O'Hern/
Examiner, Art Unit 1794
September 1, 2009